

GETTING COMPENSATED



Federal Criminal Practice Seminar
February 28, 2013

ATTORNEY COMPENSATION



ATTORNEY COMPENSATION

- ❑ Rates (set by Congress, changed periodically):
 - Attorney fees
 - \$125 per hour (last changed on January 1, 2010)
- ❑ Case compensation maximums
 - \$9,700 - Felony Criminal Representation
 - \$2,800 - Misdemeanor Representation
- ❑ Mileage
 - \$.565 per mile

ATTORNEY COMPENSATION

- ❑ Fees in excess of these maximums must be:
 - Accompanied by a CJA 26 Form
 - Approved by the presiding judge
 - Approved by the Chief Judge of the 5th Circuit (or designee)

- ❑ Fees in excess of the statutory maximum will be approved only if the case is extended or complex.

ATTORNEY COMPENSATION (CONT'D)

Tips

- ❑ Be careful not to claim excessive time waiting in court or waiting to visit a client. (Minute orders are checked to verify a proceeding's time.)
- ❑ Never bill for duplicate travel time or mileage when serving two (or more) clients on the same trip – split the time or mileage between the clients.
- ❑ Do not bill at your regular hourly rate under any circumstance (use of statutory rate is mandatory).

ATTORNEY EXPENSES

Not Reimbursable

- Office Overhead
- Personal Items
- Filing Fees
- Service of Process
- Taxes

May Be Reimbursable

- Reasonable Out-of-Pocket Expenses
- Transcripts
- Computer Assisted Legal Research
- Travel Expenses

- Reimbursable expenses are NOT subject to the compensation maximums

FUNDS FOR INVESTIGATORS, EXPERTS, & OTHERS



INVESTIGATORS, EXPERTS, AND OTHERS

□ Compensation Maximum

- Up to \$800 per case without prior approval
 - Above \$800 requires prior approval of presiding judge
 - Best Practice: Use CJA 21 form to request approval
- Up to \$2,400 per case with prior approval
 - Compensation above \$2,400 requires prior approval from Chief Judge of the 5th Circuit (or designee)

□ No prior approval = Delay and Possible Fee Reduction or Disallowance of Compensation

INVESTIGATORS, EXPERTS, AND OTHERS (CONT'D)

- ❑ Paralegal and law student services are other services and must be included on a CJA 21
- ❑ These services are subject to the statutory maximum compensation amount for investigative, experts, and other services, including the prior approval requirement if above \$800.

INVESTIGATORS, EXPERTS, AND OTHERS

Expert Services - Justification

- Who?
 - Expert's credentials and experience
- What?
 - Tests to be performed
 - Work to be done
- Why? (Include background of case)
 - Why is the expert proper for this case?
- How Much?
 - Hourly rate?
 - Estimated time per task

INVESTIGATORS, EXPERTS, AND OTHERS

Tips

- ❑ If you need to make an unusual purchase, check with the presiding judge first.
- ❑ There are special rules for obtaining computer hardware and software needed for your case.
 - Defender Services may be able to provide it to you at no cost.
 - Hardware or software must be turned over to Defender Services at the conclusion of the case.

BUDGETING



INTERIM PAYMENTS

- ❑ Payments are made at the completion of the case unless the presiding judge has approved interim payments due to the complex or extended nature of the case.
- ❑ If interim payments are needed, file a request with the presiding judge
 - Include the length of time interim payments will be needed; and
 - A justification of the need for interim payments.

CASE BUDGETING

- ❑ Budgets are not required for CJA 20 appointments unless the presiding judge deems it necessary.
- ❑ Budgeting is highly recommended in a “mega-case.”

CASE BUDGETING (CONT'D)

If the judge determines that case budgeting is appropriate:

- ❑ Submit the budget *ex parte* and under seal.
- ❑ Provide a memorandum supporting and justifying proposed fees and expenses.
- ❑ If the fees will exceed the statutory maximum (common when case budgeting is appropriate), then specifically explain why the case should be deemed extended or complex and why excess payment is necessary.

BUDGET FORMATS

- ❑ Within the judge's discretion.
- ❑ Letter format may be acceptable.
- ❑ Case Budgeting Worksheets are available at: www.fd.org under Case-Budgeting Worksheets and Other Related Documents.

BEST PRACTICES FOR BUDGETING

- ❑ Create a budget and file it *ex parte* and under seal.
- ❑ Seek pre-approval from the presiding judge for any expense that requires pre-approval
 - Use CJA 21 form to request approval for investigative, expert, or other services
- ❑ Be aware of case compensation maximums
- ❑ Avoid budget overruns
 - If it appears that the budget might be exceeded in any budget category, seek approval for an amendment to the budget as soon as this becomes apparent.

ATTORNEY TIMEKEEPING SYSTEM



ATTORNEY TIMEKEEPING SYSTEM (ATS)

- ❑ Allows you to track all time, charges, and expenses associated with a CJA case by voucher.
- ❑ Displays aggregate voucher totals and case totals as you enter charges.
- ❑ Automatically provides and extends hourly rates and totals as allowed by case type.
- ❑ Allows you to print and/or save all voucher line-item charges as PDF documents.
- ❑ Allows you to print and/or save completed CJA 20 or 21 vouchers as PDF documents for submission to the court.

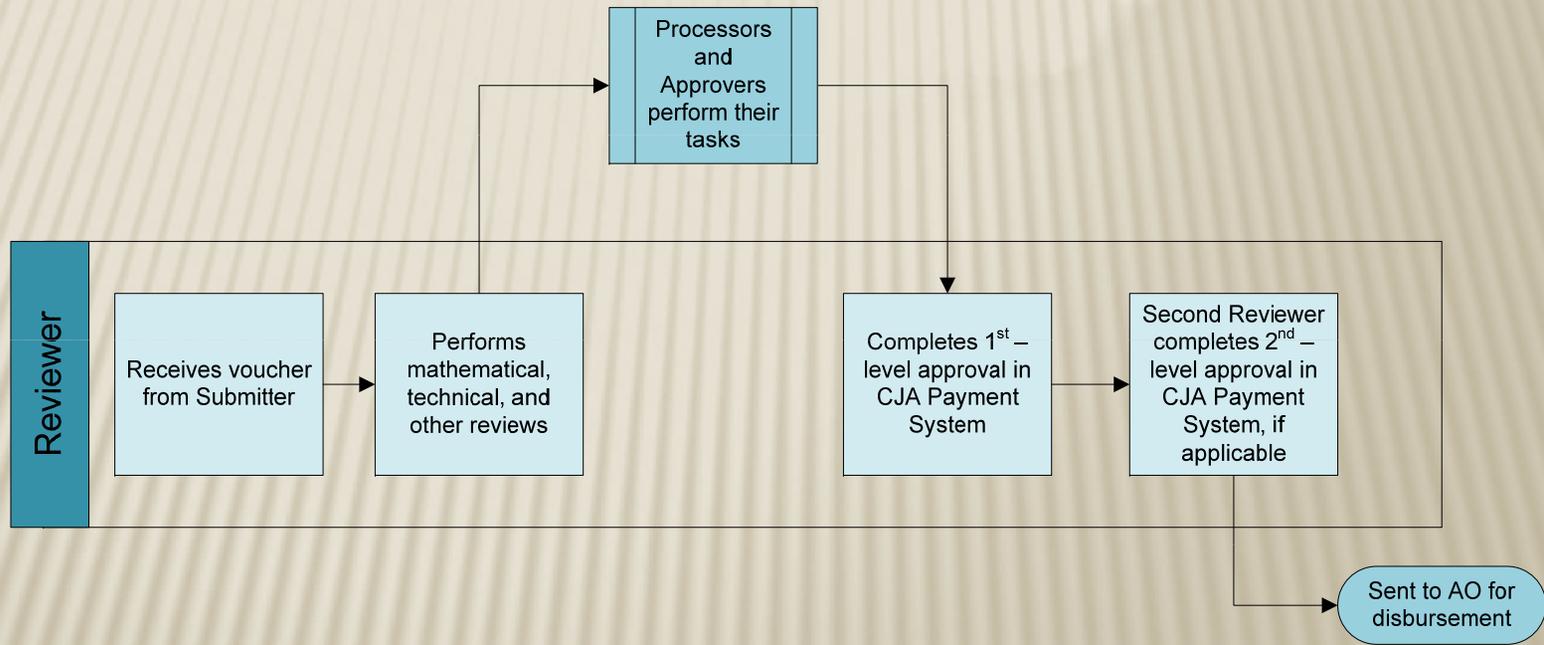
ATS (CONT'D)

- ❑ <https://jury.txnd.uscourts.gov/CJA/>
- ❑ Click on link: 'Click Here for New User Registration'
- ❑ Complete and submit the registration form.
- ❑ The Clerk's Office will contact you via email within 24 business hours once your account is activated.

ATS (CONT'D)

- ❑ Log into the ATS and follow the home page instructions for creating a case, then creating vouchers for that case.
- ❑ For any questions or assistance, contact:
 - Tammy Shipley at 214-753-2152 or tammy_shipley@txnd.uscourts.gov
 - Chad Cunningham at 214-753-2209 or chad_cunningham@txnd.uscourts.gov

REVIEWER PROCESS



TOP TEN WAYS TO EXPEDITE PAYMENT



TOP TEN WAYS TO EXPEDITE PAYMENT

1. If you are submitting a voucher for the first time, or need to change your address or other payment information, send in a completed “Panel Attorney Data with W-9 Certification” form with your voucher: available on the court’s website at:
<http://www.txnd.uscourts.gov/attorneyinfo/cjabook.html>
2. Be very careful not to claim fees for work done that predates the date the judge officially appointed you (or obtain Nunc Pro Tunc Date approval from the judge).
3. Use the Attorney Timekeeping System to keep an accurate record of your time.
4. Use the specific categories in the Attorney Timekeeping System to describe your work in the case. You can elaborate as necessary in the text.

TOP TEN WAYS TO EXPEDITE PAYMENT

5. Provide receipts for any expenses over \$50.
6. Do not use partners or associates without written pre-approval of the presiding judge (use CJA 21 form). Attach a copy of the approval to your voucher.
7. Always sign and date your voucher.
8. Mark whether the voucher is for a final payment or an interim payment.
9. For compensation in excess of the compensation maximum (e.g., \$9,700 for a felony prosecution), provide a completed CJA 26 with your voucher. Be clear and specific in providing your justification.

THE NUMBER ONE WAY TO EXPEDITE PAYMENT:

1. Send your voucher and accompanying documents to the relevant clerk's divisional office. Do not send them directly to the presiding judge.

Amarillo

Amarillo Divisional Office
205 E. Fifth St., Room 133
Amarillo, TX 79101-1559

Abilene, Lubbock, San Angelo

Lubbock Divisional Office
1205 Texas Ave., Room 209
Lubbock, TX 79401-4091

Dallas, Wichita Falls

Dallas Divisional Office
1100 Commerce St., Room 1452
Dallas, TX 75242

Fort Worth

Fort Worth Divisional Office
501 W. 10th St., Room 310
Fort Worth, TX 76102-3673

HELPFUL CONTACTS

- ❑ For payment status, call Financial Services in the Clerk's Office:
 - Dallas: 214-753-2209
 - Fort Worth: 817-850-6610

- ❑ Circuit: 504-310-7765 (for excess vouchers)
 - CJA Administrator: cja_request@ca5.uscourts.gov

- ❑ Defender Services Hotline:
Phone: 800-788-9908
Website: www.fd.org

HELPFUL WEBSITES

- ❑ www.fd.org - budget forms & worksheets
- ❑ www.uscourts.gov/uscourts/cjaort/index.html - National CJA Voucher Reference Tool
- ❑ www.lb5.uscourts.gov/cja/ - Fifth Circuit CJA Home Page with CJA worksheets, forms, instructions, and contact info at 5th Circuit
- ❑ www.txnd.uscourts.gov/attorneyinfo/cjabook.html - CJA application, CJA forms and instructions, links to ATS and other important information such as mileage rates, compensation rates, and CJA Handbook